

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:)
)
CIRCUIT CITY STORES, INC., et al,) Case No. 08-35653-KRH
) Chapter 11
Debtors.) Jointly Administered

RESPONSE OF ROY EISNER TO DEBTORS'
THIRTY-FIRST OBJECTION TO CLAIMS (DISALLOWANCE
OF CERTAIN LEGAL CLAIMS)

Roy Eisner ("Mr. Eisner"), by and through his undersigned counsel, submits this Response to the Debtors' Thirty-first Omnibus Objection to Claims (Disallowance of Certain Legal Claims) ("the Thirty-first Omnibus Objection" or "the Objection"). In Support of his Response, Mr. Eisner respectfully states as follows:

Background

1. On November 10, 2008, ("the Petition Date"), Circuit City Stores, Inc. and related companies filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code.
2. Mr. Eisner timely filed a Proof of Claim in this matter: Claim No. 3025 in the amount of \$10 million ("the Claim").
3. The Claim is for damages for personal injuries suffered by Mr. Eisner on April 8, 2009, at the Circuit City store in Bristol, Pennsylvania, as a result of intentional acts and the negligence of Circuit City and its officers, directors, employees and/or agents.

Philip C. Baxa VSB No. 22977

MercerTrigiani LLP

16 South Second Street

Richmond, VA 23219

Tel: 804-782-8691

Fax: 804-644-0209

Phil.baxa@mercertrigiani.com

Counsel for Roy Eisner

4. The incident, and the injuries resulting therefrom, are described and/or referred to in the Claim and in materials previously provided to the Debtors.
5. The Claim is listed in Exhibit D to the Thirty-first Objection, and is described in the Objection as a “Workman’s Compensation Legal Claim”, which asserts a claim “against the Debtors for alleged workers’ compensation benefits”. Objection at Paragraph 2.
6. Mr. Eisner is not, and has never been, an employee of any of the Debtors. The Claim is not “against the Debtors for alleged workers’ compensation benefits”; and Mr. Eisner does not seek workman’s compensation benefits from the Debtors or any of their insurers.
7. The Debtors remain liable to Mr. Eisner for the matters described and referred to herein and in his Claim.
8. Mr. Eisner requests that no further action be taken on his Claim without Notice and a hearing on the Objection and this Response. Mr. Eisner objects to any actions to his prejudice regarding his Claim.

WHEREFORE, Mr. Eisner respectfully requests the Debtors' Objection be denied, and that the Claim of Mr. Eisner be deemed allowed. Mr. Eisner further asks the Court to award him his attorney's fees and costs, and to grant Mr. Eisner such other and further relief as this Court deems proper and equitable.

Date: September 14, 2009

ROY EISNER

By: /s/ Philip C. Baxa
Of Counsel

Philip C. Baxa VSB No. 22977
MercerTrigiani LLP
16 South Second Street
Richmond, Virginia 23219
Tel: 804-782-8691
Fax: 804-644-0209
phil.baxa@mercertrigiani.com
Counsel for Roy Eisner

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 14th day of September, 2009, this Response to Thirty-first Objection will be filed with the Clerk of the Court using the CM/ECF system, and send a true and correct copy of the Response via regular mail, postage prepaid, on September 14, 2009 to:

Greg M. Galardi
Skadden, Arps, Slate, Meagher & Flom
One Rodney Square
P.O. Box 636
Wilmington, DE 19899-0636

Robert Van Arsdale
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

Dion W. Hayes
McGuire Woods, LLP
One James Center
901 East Cary Street
Richmond, VA 23219

Robert J. Feinstein
Pachulski Stang Ziehl & Jones, LLP
780 Third Avenue, 36th Floor
New York, NY 10017

Lynn L. Tavenner
Tavenner & Beran, PLC
20 North Eighth Street
Second Floor
Richmond, VA 23219

Brad R. Godshell
Pachulski Stang Ziehl & Jones
10100 Santa Monica Boulevard, 11th Floor
Los Angeles, CA 90067-4100

Douglas H. Foley
McGuire Woods, LLP
9000 World Trade Center
101 W. Main Street
Norfolk, VA 23510

Chris L. Dickerson
Skadden, Arps, Slate, Meagher & Flom LLP
333 West Wacker Drive
Chicago, Illinois 60606

/s/ Philip C. Baxa

R0009068